

§ 230.20

39 CFR Ch. I (7–1–16 Edition)

(2) Relevant legal standards for disclosure of nonpublic information and documents;

(3) Office of Inspector General rules and regulations;

(4) The public interest;

(5) Minimizing or preventing expenditures of Office of Inspector General and Postal Service time and resources solely for private purposes.

(6) Minimizing the appearance of improperly favoring one litigant over another;

(7) Minimizing the possibility that the public will misconstrue variances between personal opinions of Office of Inspector General employees and agency policy; and

(8) Preserving the integrity of the administrative process.

(b) Permission to testify or to release documents in all cases will be limited to matters outlined in the affidavit or declaration described in section 230.24 of this part or to such matters as deemed appropriate by the authorizing official. If the authorizing official allows the release of documents or testimony to be given by an employee, arrangements shall be made for the taking of testimony or receipt of documents by the method least disruptive to the employee's official duties. Testimony may, for example, be provided by affidavits, answers to interrogatories, written depositions, or depositions transcribed, recorded, or preserved by any other means allowable by law.

(c) Upon issuance of an unfavorable final determination by the authorizing official, the party or the party's counsel seeking testimony or documents may consult or negotiate with the authorizing official to refine and limit the demand.

(d) The Office of Inspector General will offer all possible assistance to the courts, but the question of disclosing information for which an exemption may be claimed is a matter of discretion that rests with the authorizing official. If in the opinion of the authorizing official the documents should not be released or testimony should not be furnished, that determination will be final.

§ 230.20 What records will not be released?

Generally, any record demanded by a subpoena duces tecum or appropriate court order can be released by a properly authorized Office of Inspector General employee, except for the following:

(a) Records required to remain confidential by the Freedom of Information Act, the Privacy Act, and parts 230 and 262 of this chapter,

(b) Records containing information relating to an employee's security or loyalty;

(c) Original records;

(d) Office of Inspector General criminal investigative reports, unless there is specific authorization by an authorizing official, after consulting with General Counsel to the Inspector General; and

(e) The Office of Inspector General Manual and other operating instructions issued to Office of Inspector General employees, unless there is specific authorization by an authorizing official, after consultation with the General Counsel to the Inspector General. If the requested information relates to confidential investigative techniques, confidential sources of information, or information that must be kept confidential under the Inspector General Act, 5 U.S.C. app. 3, because release of the information would adversely affect the duties and obligations or law enforcement mission of the Office of Inspector General, the subpoenaed official, through the Inspector General, or an authorizing official, may request an in camera, ex parte conference to determine the necessity for the release of the information.

§ 230.21 May the General Counsel to the Inspector General and/or a U.S. Department of Justice attorney represent the employee in any appearance?

At the option of the Attorney General, or an authorizing official, an Office of Inspector General legal counsel may represent and assist the employee. The authorizing official designated by the Inspector General may also request assistance from the U.S. Department of Justice in representing and assisting the employee in any appearance.